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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,017	02/09/2005	Luigi Spedini	2508-1021	7569
466 7590 07/10/2008 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER NGUYEN, CHI Q	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 07/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/524,017

Applicant(s)

SPEDINI, LUIGI

Examiner

CHI Q. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 1, 7, 8, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 6 and 9-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 3/31/2008.

#### ***Status of Claims***

Claims 1 and 3-13 are pending.

Claim 2 has been cancelled.

#### ***Withdrawn of Allowable Subject Matters***

Upon further consideration, the previous stated allowable subject matter of claims 7-9 and 13 are withdrawn. With new art and rejections are following:

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regarding claim 7, a citation "wherein said supporting structure comprises lateral surfaces that are essentially plane and rigid, and are realized by means of panels" is confusing and indefinite. Claims 8-9 depending upon the rejected claim 7 are also rejected.

Regarding claim 11, the phrase "may" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5,068,929 to Weiner.

Claim 1:

Weiner discloses an above-ground swimming pool, comprising at least one basin structured and arranged to contain water for swimming, consisting of a waterproof first sheet 18 and of a supporting structure 20 and an overflowing channel 28 contained in a space of said supporting structure defined between first inner support means 26, adjacent to said basin, and second support means 24, external to said first ones wherein said overflowing channel is adapted to contain enough water to work as an accumulation and compensation basin for said swimming pool (see Fig. 2).

Claim 7:

As best understood, Weiner discloses an above-ground swimming pool, comprising at least one basin structured and arranged to contain water for swimming, consisting of a waterproof first sheet 18 and of a supporting structure 20 and an overflowing channel 28 contained in a space of said supporting structure defined between first inner support

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means 26, adjacent to said basin, and second support means 24, external to said first ones;

Wherein said supporting structure 20 comprises lateral surface that are essentially plane and rigid, and are realized by means of panels 22 (see Fig. 2).

Claims 8 and 13:

Wherein said first inner and second external support means of said supporting structure comprise two parallel lines 48 of vertical rods.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,068,929 to Weiner.

Weiner discloses the basic structures as stated but does not expressly disclose wherein the support structure is made from galvanized steel. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have a selective material for economical reasons. Furthermore, applicant has not disclosed the criticality of this feature.

***Allowable Subject Matter***

Claims 3, 5, 6, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 4 is allowed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 7-8, and 12-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

/Richard E. Chilcot/  
Supervisory Patent Examiner, Art Unit 3635